

**Introduced by Senator Mitchell
(Coauthor: Senator Hernandez)**

February 12, 2014

An act to amend Sections 2585, 2586, 2586.4, and 2586.8 of the Business and Professions Code, relating to dietitians.

LEGISLATIVE COUNSEL'S DIGEST

SB 993, as introduced, Mitchell. Healing arts: dietitians.

Existing law requires dietetic technicians to possess prescribed qualifications, including academic requirements, and provides that the use by any person not meeting those requirements, in connection with his or her name or place of business, of the term "dietetic technician" is a crime.

Existing law provides that a registered dietitian may provide medical nutrition therapy, upon referral by a health care provider, which includes, among other things, the development of nutritional and dietary treatments for individuals or groups of patients in specified settings. Existing law allows a dietetic technician to assist the registered dietitian in these circumstances in the implementation or monitoring of medical nutrition therapy. Existing law provides that practicing in a manner inconsistent with these provisions is a misdemeanor.

This bill would revise the qualifications required for a person representing himself or herself as a dietetic technician, and would require the dietetic technician to have completed his or her course of study before assisting the registered dietitian. This bill would also allow a registered dietitian, under the above-described circumstances, to develop and recommend nutritional and dietary treatments, as provided, and would allow the registered dietitian to be authorized to provide medical nutrition therapy pursuant to a licensed health care facility's approved

policy and procedure, as provided. This bill would also make technical, nonsubstantive changes.

By both expanding and changing the definition of existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2585 of the Business and Professions
2 Code is amended to read:

3 2585. (a) Any person representing himself or herself as a
4 registered dietitian shall meet one of the following qualifications:

5 (1) Been granted, prior to January 1, 1981, the right to use the
6 term “registered dietitian” by a public or private agency or
7 institution recognized by the State Department of ~~Health Services~~
8 *Public Health* as qualified to grant the title, provided that person
9 continues to meet all requirements and qualifications periodically
10 prescribed by the agency or institution for the maintenance of that
11 title.

12 (2) Possess all of the following qualifications:

13 (A) Be 18 years of age or older.

14 (B) Satisfactory completion of appropriate academic
15 requirements for the field of dietetics and related disciplines and
16 receipt of a baccalaureate or higher degree from a college or
17 university accredited by the Western Association of Schools and
18 Colleges or other regional accreditation agency.

19 (C) Satisfactory completion of a program of supervised practice
20 for a minimum of 900 hours that is designed to prepare entry level
21 practitioners through instruction and assignments in a clinical
22 setting. Supervisors of the program shall meet minimum
23 qualifications established by public or private agencies or
24 institutions recognized by the State Department of ~~Health Services~~
25 *Public Health* to establish those qualifications.

(D) Satisfactory completion of an examination administered by a public or private agency or institution recognized by the State Department of ~~Health Services~~ *Public Health* as qualified to administer the examinations.

(E) Satisfactory completion of continuing education requirements established by a public or private agency or institution recognized by the State Department of ~~Health Services~~ *Public Health* to establish the requirements.

(b) Any person representing himself or herself as a dietetic technician, registered shall possess all of the following qualifications:

(1) Be 18 years of age or older.

~~(2) Satisfactory completion of appropriate academic requirements and receipt of an associate's degree or higher from a college or university accredited by the Western Association of Schools and Colleges or other regional accreditation agency.~~

~~(3) Satisfactory completion of the dietetic technician program requirements by an accredited public or private agency or institution recognized by the State Department of Health Services including not less than 450 hours of supervised practice.~~

(2) *Satisfactory completion of either of the following:*

(A) *Appropriate academic requirements for dietetic technicians, receipt of an associate's degree or higher from a college or university accredited by the Western Association of Schools and Colleges or other regional accreditation agency, and at least 450 hours of supervised practice experience. Supervisors of practice experiences shall meet the minimum qualifications established by public or private agencies or institutions recognized by the State Department of Public Health to establish the qualifications.*

(B) *Appropriate academic requirements for the field of dietetics and related disciplines and receipt of a baccalaureate or higher degree from a college or university accredited by the Western Association of Schools and Colleges or other regional accreditation agency.*

~~(4)~~

(3) Satisfactory completion of an examination administered by a public or private agency or institution recognized by the State Department of ~~Health Services~~ *Public Health* to administer the examination.

~~(5)~~

1 (4) Satisfactory completion of continuing education requirements
2 established by a public or private agency or institution recognized
3 by the State Department of ~~Health Services~~ *Public Health* to
4 establish the requirements.

5 (c) It is a misdemeanor for any person not meeting the criteria
6 of subdivision (a) or (b) to use, in connection with his or her name
7 or place of business, the words “dietetic technician, registered,”
8 “dietitian,” “dietician,” “registered dietitian,” “registered dietician,”
9 or the letters “RD,” “DTR,” or any other words, letters,
10 abbreviations, or insignia indicating or implying that the person
11 is a dietitian, or dietetic technician, registered or registered dietitian,
12 or to represent, in any way, orally, in writing, in print or by sign,
13 directly or by implication, that he or she is a dietitian or a dietetic
14 technician, registered or a registered dietitian.

15 (d) Any person employed by a licensed health care facility as
16 a registered dietitian on the effective date of this chapter may
17 continue to represent himself or herself as a registered dietitian
18 while employed by a licensed health care facility, if he or she has
19 satisfied the requirements of either paragraph (1) or paragraph (2)
20 of subdivision (a), except that he or she shall not be required to
21 satisfy the examination requirement of subparagraph (B) of
22 paragraph (2) of subdivision (a).

23 (e) Notwithstanding any other provision of law or regulation
24 that limits reimbursement to state licensed health care providers
25 and upon referral by a physician and surgeon, the following persons
26 may be reimbursed for the nutritional advice or advice concerning
27 proper nutrition as set forth in Section 2068, or for the nutritional
28 assessments, counseling, and treatments as set forth in Section
29 2586:

30 (1) Registered dietitians.

31 (2) Other nutritional professionals with a master’s or higher
32 degree in a field covering clinical nutrition sciences, from a college
33 or university accredited by a regional accreditation agency, who
34 are deemed qualified to provide these services by the referring
35 physician and surgeon.

36 (f) Nothing in this section shall be construed to mandate direct
37 reimbursement of registered dietitians, or other nutrition
38 professionals described in subdivision (e), as a separate provider
39 type under the Medi-Cal program, nor to mandate reimbursement
40 where expressly prohibited by federal law or regulation.

SEC. 2. Section 2586 of the Business and Professions Code is amended to read:

2586. (a) (1) Notwithstanding any other provision of law, a registered dietitian, or other nutritional professional meeting the qualifications set forth in subdivision (e) of Section 2585 may, upon referral by a health care provider authorized to prescribe dietary treatments, provide nutritional and dietary counseling, conduct nutritional and dietary assessments, and develop *and recommend* nutritional and dietary treatments, including therapeutic diets, for individuals or groups of patients in licensed institutional facilities or in private office settings. The referral *for medical nutrition therapy* shall be accompanied by a written prescription signed by the health care provider detailing the patient's diagnosis and including *either* a statement of the desired objective of dietary treatment, ~~unless a referring physician and surgeon has established or approved a written protocol governing the patient's treatment.~~ The services described in this subdivision may be termed "~~medical nutrition therapy.~~" *treatment or a diet order. The registered dietitian may be also authorized to provide medical nutrition therapy pursuant to a licensed health care facility's approved policy and procedure to identify patients that warrant medical nutrition therapy. The registered dietitian shall collaborate with a multidisciplinary team, which shall include the treating physician and the registered nurse, in developing the patient's nutrition care plan. The registered dietitian may individualize the patient's nutritional or dietary treatment when necessary, by modifying the distribution type, quantity of food, and nutrients within the parameters of the prescribed diet order.*

(2) *The services described in this subdivision may be termed "medical nutrition therapy."*

(b) A registered dietitian, or other nutritional professional meeting the qualifications set forth in subdivision (e) of Section 2585, may accept or transmit verbal orders or electronically transmitted orders *for medical nutrition therapy* from the referring physician ~~consistent with an established protocol to implement medical nutrition therapy~~ *responsible for the care of the patient.*

(c) A registered dietitian, or other nutritional professional meeting the qualifications set forth in subdivision (e) of Section 2585, may order medical laboratory tests related to ~~nutritional therapeutic treatments~~ *medical nutrition therapy services* when

1 ~~authorized to do so by a written protocol prepared or approved by~~
2 the referring physician and when, in the absence of the referring
3 physician at a patient visit, in a clinic where there is a registered
4 nurse on duty, a registered nurse is notified that a medical
5 laboratory test is being ordered and is afforded an opportunity to
6 assess the patient.

7 (d) (1) Notwithstanding any other provision of law, a dietetic
8 technician, registered meeting the qualifications set forth in Section
9 2585 may, under the direct supervision of a registered dietitian,
10 assist in the implementation or monitoring of services specified
11 in subdivision (a), but may not develop nutritional or dietary
12 therapy or treatments or accept or transmit verbal orders.

13 (2) (A) For purposes of this subdivision, “direct supervision”
14 means the supervising registered dietitian shall be physically
15 available to the dietetic technician, registered for consultation
16 whenever consultation is required. However, in the case of a small
17 or rural hospital, as defined in Section 124840 of the Health and
18 Safety Code, the registered dietitian may be available for
19 consultation by telephone or other electronic means, provided that
20 the registered dietitian is physically on the facility site a sufficient
21 amount of time to provide adequate supervision over and review
22 of the work of the dietetic technician, registered.

23 (B) For purposes of this subdivision, “physically available”
24 means physical onsite presence during regular business hours, and
25 includes telephonic or electronic availability at all times and the
26 ability to respond to the facility within a reasonable period of time
27 when required. The registered dietitian shall review any activities
28 performed by the dietetic technician, registered during any period
29 when the registered dietitian was not physically onsite.

30 (3) For purposes of this subdivision, a registered dietitian shall
31 not supervise more than two dietetic technicians, registered at one
32 time.

33 (e) It is a misdemeanor for a person specified in subdivision (e)
34 of Section 2585 to practice in a manner inconsistent with the
35 requirements set forth in this section.

36 (f) Nothing in this section shall preclude a person specified in
37 subdivision (b) or (e) of Section 2585 from providing information
38 as permitted by Section 2068.

39 (g) For purposes of this section, “health care provider” means
40 any person licensed or certified pursuant to this division, or

1 licensed pursuant to the Osteopathic Initiative Act or the
2 Chiropractic Initiative Act.

3 (h) The requirement of a written prescription shall be deemed
4 to be satisfied by an entry in the patient records of a patient who
5 is undergoing treatment at a licensed health care facility if the
6 contents of the patient records reflect the information required by
7 this section.

8 (i) Nothing in this section or Section 2585 shall be interpreted
9 to establish educational criteria or practice restrictions or limitations
10 for other health care providers licensed under Division 2
11 (commencing with Section 500) or the Osteopathic Initiative Act
12 or the Chiropractic Initiative Act.

13 SEC. 3. Section 2586.4 of the Business and Professions Code
14 is amended to read:

15 2586.4. A person may engage in the activities set forth in
16 subdivision (d) of Section 2586 if the person meets both of the
17 following requirements:

18 (a) The person is engaged in the activities as part of a supervised
19 practice program for a dietetic technician pursuant to ~~paragraph~~
20 ~~(3) subparagraph (A) of paragraph (2) of subdivision (b) of Section~~
21 2585.

22 (b) The person is ~~enrolled in or~~ has completed a course of study
23 to fulfill the educational requirements for a dietetic technician in
24 ~~subparagraph (A) or (B) of paragraph (2) of subdivision (b) of~~
25 Section 2585.

26 SEC. 4. Section 2586.8 of the Business and Professions Code
27 is amended to read:

28 2586.8. A person may engage in the activities set forth in
29 subdivision (d) of Section 2586 for six months from the date he
30 or she completed the ~~supervised practice program for dietetic~~
31 ~~technicians; academic requirements for dietetic technicians~~
32 ~~specified in subparagraph (A) or (B) of paragraph (2) of~~
33 ~~subdivision (b) of Section 2585~~, or until the person receives notice
34 that he or she has failed the examination specified in subdivision
35 (d), whichever occurs first, if all of the following conditions apply:

36 (a) The person performs under the direct and immediate
37 supervision of a registered dietitian.

38 ~~(b) The person has completed the supervised practice program~~
39 ~~requirements under subdivision (b) of Section 2585.~~

40 (e)

1 (b) The person has written verification, including the program
2 director's original signature, that the person has completed the
3 ~~required supervised practice~~ *educational program and possesses*
4 *an associate's degree or higher.*

5 (d)

6 (c) The person has applied to take the dietetic technician
7 examination specified in paragraph (4) of subdivision (b) of Section
8 2585 and is waiting for an examination date.

9 SEC. 5. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.